



# Conviction Reporting, Enforcement Actions, Administrative Hearings and the Driver Responsibility Program

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## What will be covered:

- Reporting Convictions / Timely Reporting
- Understanding Enforcement Actions
- Administrative Hearings and Findings
- Driver Responsibility Program
- Occupational Licenses



# Reporting Convictions

- As of March 1, 2013, all traffic convictions sent to the department for processing are required to be submitted via the SFTP website.
- Convictions requiring a suspension must be submitted on the following DPS approved forms:
  - CR43/CR44
  - DIC-81
  - DL-115 (formerly DIC-15)
  - DL-117 (formerly DIC-17)
- **If you report electronically (Via CJIS), DO NOT submit a hard copy UNLESS reporting:**
  - **Ignition Interlock Requirement**
  - **Administrative License Revocation (ALR) credit**
- This submission method requires the use of a personal computer or laptop with an internet connection and standard software for generating the required report.



# Electronic Reporting

- As federal standards are mandated, you must use the secure electronic method prescribed by the Department as of February 1, 2013.
  - Hard Copy Tickets will be rejected.
- Should you have questions about the process, please contact a Conviction Reporting Representative at (512) 424-2031 or you may email us at [data.submission@dps.texas.gov](mailto:data.submission@dps.texas.gov).



# Suspension Dates and Reporting Timely



# DWI Suspensions-Adults

- 21 years of age and older
  - Court must report beginning & ending suspension dates on DL-117 form
    - Begins no later than the 30<sup>th</sup> day after the date of conviction
    - ***If suspension dates are not reported, no suspension is entered on the driver record***
    - Can be suspended for 90 days to a maximum of two years dependent upon number of offenses
    - ALR Credit will not be applied to 2<sup>nd</sup> or subsequent offenses
- Statute: Transportation Code 521.344(a)(2)(A); 521.344(c)(1); 524.023(b);



# Probated DWI

- If no suspension is indicated on the DL-117 and an education Program is required the DWI will be placed on the record as **Probated**
  - The education program must be completed within 180 days or a revocation will be generated on the record and a reinstatement fee for non-completion will be required
- **Subsequent Education Program Suspension**
  - If convicted of 2 or more Probated DWIs and 2 or more education programs are required a 1 year suspension will be applied
    - The Suspension must be served
    - ALR Credit can not be applied
  - Court may Waive only 1 program to avoid suspension
- Statute: CCP Art. 42A.407 (h), Subchapter I, 42A.407 (c)



# Drug Suspensions

- Should be reported on DL-117 unless a Juvenile at the time of the offense
- Licensed Drivers receive an automatic 180-day suspension beginning on the conviction date
- ID card holders/Unlicensed Drivers receive a 180-day denial upon application for a driver license
- Drug Education Program is required for every conviction and cannot be waived
- Drug deferrals should NOT be reported
- Dangerous Drug, Volatile Chemical and Controlled Substance Act Offenses for anyone under 21 years of age is a one year suspension beginning on the conviction date
  - Drug Education Program MAY be required.
- Statute: TRC 521.372; 521.374; 521.342 and Health & Safety Code Section 483.041; 484; 481



# Drug Paraphernalia

- Do not report Drug Paraphernalia unless it requires a suspension.
- Report on DL-117
- If the court reports a Drug Paraphernalia offense that indicates 'misdemeanor' it will not be reflected on the record, it will be returned back to the court .
- If the court **DOES NOT** indicate that the offense is a misdemeanor then it will be applied to the record as a Drug Offense that requires a 180 day suspension/prohibition period, an SR-22 requirement and the completion of an Education Program.
  - Statute: TRC 521.372 ; HC 481.125 (c)



# Non Resident Violator Compact

# Non Resident Violator Compact



For Out of State Failure To Appear, Failure to Pay or  
Failure to Comply

A reciprocal agreement among member states that initiates revocation action for a non-resident driver with an unsatisfied traffic citation. The revocation remains in effect until the terms of that citation are met.

- Must be reported to home jurisdiction within 6 months the of citation date.
- Only DLs and CDLs.
- Apply to moving traffic violations that do not carry a suspension or revocation of their own.



# Notice of Violation for Minor



# DWI Suspensions - Minors

- Under 21 (17-20 years of age)
- Reported on DL-117
  - First offense is an automatic 1 year
  - 2<sup>nd</sup> or Subsequent offenses are an automatic 18 months
  - If Ignition Interlock is required, then these suspensions are reduced to 90 days
  - ***The court cannot give ALR credit to a driver suspended under this statute.***
  - Statute: Transportation Code 521.342; 521.343; 521.344(c); CCP Art. 42.12 Section 13(n)



# Alcoholic Beverage Code Violations

- Alcoholic Beverage Code violations apply to persons under 21 years of age
- Reported on the DL-115
- The automatic suspension begins on the 11<sup>th</sup> day after conviction
- The suspension periods are:
  - First offense: 30 day unless reported as deferred
  - Second offense: 60 day suspension
  - Third or subsequent offense: 180 day suspension
    - Court can not defer a third or subsequent suspension
  - Statute: Alcoholic Beverage Code, Sections: 106.02; 106.025; 106.04; 106.05 106.07 106.071

# Minor Education Courses

- Apply to individuals 10-17 years of age for tobacco awareness and 10-20 years of age for alcohol awareness
- Reported on the DL 115
- Failure to complete a class for alcohol or tobacco awareness is a suspension not to exceed 180 days for the 1st offense and up to 365 days for the 2nd or subsequent offenses
  - Court must provide a minimum of 90 days between the disposition/conviction date and beginning suspension date
- AA suspension request must include the underlying offense; i.e. Fail to complete AA class for MIP.
- Statute: Alcoholic Beverage Code Sec. 106.115; Health & Safety Code Sec. 161.252, and 161.253;



# Suspensions for Juveniles

- Apply to Drivers 10-17 years of age at the time of offense
- Reported on the DL 115
- Delinquent conduct and graffiti carry a suspension not to exceed 1 year and begins on conviction date
- Suspension beginning and ending dates must be reported by the court
- Statute: Family Code Sections 54.04, 54.042 51.03 54.021; Penal Code 28.08



# Truant Conduct

- Offenses for Truant Conduct apply to individuals 12-18
- Reported on the DL 115
- Became effective 09/01/2015
- 180 days from the date of the order; or
  - The last day of the school year
- Suspension Dates are required
- Statute: Family Code 65.103 6 (c); 65.104



# Minor FTA

- Fail to Appear (FTA) applies to ages 14-16 for traffic and non-traffic violations
- FTA are reported on a DIC-81
- Driving privileges will be revoked indefinitely until the driver complies with the court
- Statute: TRC Sec. 521.294(6); CCP 45.050; FC Sec. 51.02(2)(A)



# Reporting Timely

- Texas Statute: TRC Section 543.203 – requires convictions to be reported by the 7th day after the conviction date
- Federal Statute: Federal Motor Carrier Safety Regulations (FMCSR) 384.209 – requires convictions for CDL/CMV to be reported to CDLIS by the 10th day after the conviction date



# Corrections

- If a conviction is reported in error, the court must submit a Department approved correction form to Conviction Reporting to have the record amended.
- DPS Correction forms should be submitted via:
  - ▶ Email to [convictionreporting@dps.texas.gov](mailto:convictionreporting@dps.texas.gov)
  - ▶ Fax to 512-424-2231 or 512-424-5809
- Please allow 3-5 business days from receipt of the correction form for completion.
- Entry of convictions on a Driver record could potentially cause additional enforcement action(s), therefore, a correction requires extensive review of the record to ensure accuracy.
- Do not provide the correction forms to customers or attorneys.

# FY 2017

- Mandatory Suspensions 115,587
- Administrative 370,737
  - Suspensions 295,974
  - Disqualifications 5,252
  - Revocations 39,070
  - Crash cases 30,441
- Electronic Submissions 2,854,442
- Corrections 17,834



# Understanding Enforcement Actions



# Enforcement Actions

- Suspensions
  - set amount of time
  - *Exception*: surcharges are indefinite
- Revocations, Cancellations and Denials
  - indefinite until compliance is received
  - *Exception*: denials can be set amount of time
- Disqualifications
  - set amount of time
  - commercial motor vehicle privileges only



# Mandatory vs. Administrative Enforcement Actions

- Mandatory suspensions are a direct result from convictions or court orders
  - DWI
  - No Insurance
  - Drug
- Administrative suspensions are initiated by the Department as an indirect result of a conviction(s)
  - Habitual Violator
  - Provisional Violator
  - NRVC



# License Eligibility Online

- A driver can obtain information 24/7 from the Texas.gov online service
- This online service provides the driver with
  - Driving status
  - List of enforcement actions
  - Compliance Requirements
  - Ability to pay fees
  - Ability to request a hearing

Visit [www.texas.gov/driver](http://www.texas.gov/driver) and click Driver License Reinstatement and Status



# Driver License Administrative Hearings



# Initiating a Case

- Based on a conviction, crash or enforcement action reported to the driving history
  - System generated notice mailed to address on record
- Prior to administrative action occurring, a hearing can be requested within 20 days of the notice to provide the person due process; If no hearing is requested suspension begins on the 45<sup>th</sup> day from the date of notice
- If a hearing is requested timely, then:
  - Suspension is stayed
  - Hearing scheduled in local JP or Municipal Court
- Governed by Transportation Code, Chapter 521, Subchapter N and outlines the hearing process in the following sections: Suspensions - Section 521.292; Revocations - Section 521.294; Disqualifications - Section 522.081



# Issue At Hearing

- What's the purpose?
  - To determine if the action stated in the notice is true
  - NOT whether the person should serve the suspension, revocation or disqualification (Section 521.301)
  - Questions regarding the Administrative Hearing process should be directed to your local Hearings Examiner
- Additional Statutes: TRC 521.301;



# Burden of Proof

- Texas civil courts have held the Department’s certified abstract is “prima facie proof of the matters stated therein,” and it is the defendant’s responsibility “to contradict the validity of the convictions and the suspension order.”
- *Tomlinson v. Tex. Dept. of Public Safety*, 429 S.W. 2d 590, 592 (Tex. Civ. App. – Corpus Christi 1968). *Tex. Dept. of Public Safety v. Miller*, 386 S.W. 2d 760 (Tex. 1965) indicates that “[i]t is the convictions that are of importance and no substantial rights of the [defendant are] prejudiced by the use of notices or abstracts to establish such convictions” in a hearing regarding the suspension of a driver license.
- These opinions apply to the administrative hearing process and the use of a certified abstract without a seal



# Findings



# Types of Findings

- Affirmative:
  - Effective 11<sup>th</sup> day after the order is entered
  - Suspension for DWLI is set by statute
  - Disqualifications are set by statute
  - Revocations are indefinite
  - All other periods are up to 1 year and set by Judge
  - A new suspension order is mailed with the beginning and ending dates
- Negative:
  - No suspension or probation
- Statute: TRC Sec. 521.293; 521.311; 521.312





# Types of Findings (Cont.)

- Probation: Best option in some cases
  - Only suspensions can be probated, **NOT** revocations/disqualifications
  - Period is from 90 days - 2 years
- On all probationary findings, Judge must complete 5 areas of the petition
  - Sign affirmative finding
  - Indicate Suspension Length (*except DWLI cases*)
  - Sign Probationary finding
  - Indicate probation length
  - Indicate terms and conditions of probation
- Terms may be set by the judge, including:
  - No convictions
  - Not responsible for crash
  - Defensive Driving or Driver Training course(court monitored)
- Statute: TRC Sec. 521.309; 521.310; 521.302



# Types of Findings (Cont.)

- Crash cases
  - Affirmative:
    - Effective 51<sup>st</sup> day after the order is entered
    - Driver must comply with request for reimbursement
  - Negative:
    - No suspension or probation
    - Subject DOES NOT have to comply with the request for reimbursement
- Statute: TRC 601.151 subchapter F



# Change of Finding

- If a person doesn't appear OR the judge wants to change a finding, a new hearing or finding must occur within 10 days of the original hearing date
  - After 10 days, the judge no longer has jurisdiction because the suspension is effective on the 11<sup>th</sup> day
  - After 10 days, the driver does not have an option for a hearing because the Department's determination is final.
- The judge can change the finding by submitting an amended finding to DPS, but it must be received by the 10th day
- If an amended finding is not submitted timely, the only option for the driver is to file an appeal
  - A driver who defaults is not eligible for an appeal because a finding must occur to appeal to a higher court
- Statute: TRC 521.301(e) and 521.311; TRC 521.302; TRC 521.308



# Completing the Form

- Judge must sign in the correct place for the finding
- Judge must fill in applicable dates
- No additional words can be added
- Do not confiscate the DL/ID
- Give Defendant copy of signed form



# Driver Responsibility Program



# Driver Responsibility Program (DRP)

- The program is governed by Chapter 708, TRC.
- Surcharges are assessed to driving records based on certain traffic citations.
- The program applies only to offenses that occurred on or after September 1, 2003.



## 2 Types of Surcharges

- Points Based – Assessed every year a driver record reflects 6 or more points of moving violations.
- Conviction Based - Assessed each year for 3 years from the date of conviction. No points are applied for these offenses since the surcharge is automatic upon conviction.



# Points Surcharges

- Assessed when the driver has 6 or more points on his driver record within 3 years.
- Moving violations are 2 points.
- Moving violations that result in an accident are 3 points.
- Fees can vary by year and can be assessed for one or more years.

<b>Points Assignment</b>	
<b>Conviction Type</b>	<b>Assigned Points</b>
Texas moving violation	2 points
Out-of-state moving violation	2 points
Texas moving violation resulting in a crash	3 points
Out-of-state moving violation resulting in a crash	3 points

# Points Surcharges

- When a driver reaches 6 points, they are required to pay \$100.
- For each additional point after 6 there is a \$25 increase per point.
- Points accrue for moving violations received in Texas or Out of State.



# Conviction Based Surcharges

<b>Conviction Surcharges</b>	
<b>Conviction Type</b>	<b>Assigned Surcharge</b>
Intoxication: 1 <sup>st</sup> offense, Texas or out-of-state conviction for driving, intoxication assault, or manslaughter	\$1,000
Intoxication: 2 <sup>nd</sup> , 3 <sup>rd</sup> , or more offenses, Texas or out-of-state conviction for driving, intoxication assault, or manslaughter	\$1,500
DWI with blood alcohol concentration of 0.16 or greater, Texas or out-of-state conviction	\$2,000
Driving without insurance	Up to \$250
Driving while license invalid: driver license is cancelled, suspended, denied renewal, or revoked	\$250
Driving without a license, no driver license or commercial driver license, expired license, or endorsement violation(s)	Up to \$100

# SB 1187

The 85<sup>th</sup> Legislative session passed SB1187 allowing Individuals convicted of No Insurance but who had insurance at the time of the offense to submit proof of insurance to the Department for the waiver of the No Insurance surcharge.

The suspension and surcharge fee will be waived.

Any fees already paid toward surcharge will not be refunded.

This became effective June 1, 2017.



# Court Ordered Indigence Program

- Sec. 708.15 of the TRC applies to surcharges on or after September 1, 2011.
- Gives the court of conviction the authorization to declare a person indigent.
- Once court order is received by DPS, surcharges will be waived for that conviction.
  - Process can take 60-90 days.



# Court Ordered Indigence Program (cont.)

- The court may fax the order to 512-424-2740.
- Or send by mail to:
  - Texas DPS
  - Attn: DRP
  - PO Box 4087
  - Austin TX 78773



# Court Ordered Indigence Program (cont.)



- Waiver must include:
  - Name of the Customer
  - DL/ID/ UNL (please include Date of Birth if UNL)
  - Case number related to the conviction
  - Date of offense
  - Date of conviction
  - Judge's signature and date signed
  - Certified Copy



# DPS Indigence Program

- Sec 708.157 of TRC applies to all surcharges.
  - Must complete application and provide proof of indigency - submit to MSB for review and approval. The application is available online.
- Upon approval surcharges will be waived.

Indigence Program		
Poverty Level	Amount Owed Reduced to	Driving Privileges
125% or less	Surcharge(s) are Waived	Removes surcharge suspensions only

To learn more about program eligibility requirements, poverty guidelines, or the application process visit our website at:

<http://www.dps.texas.gov/DriverLicense/drp.htm> or call (866) 223-3583.



# DPS Incentive Program

- Program went into effect September 9, 2013.
  - Another option for qualified applicants to reduce the amount owed.
  - Apply through MSB.

<b>Incentive Program</b>		
<b>Poverty Level</b>	<b>Amount Owed Reduced to</b>	<b>Driving Privileges</b>
126% to 300%	50%	Removes surcharge suspensions for 6 months

To learn more about program eligibility requirements, poverty guidelines, or the application process visit our website at:

<http://www.dps.texas.gov/DriverLicense/drp.htm> or call (866) 223-3583.



# DRP Reductions

- No Liability Surcharge
  - A reduction in surcharge will occur if the person obtains at least a 6 month prepaid policy no later than 60 days after the date of offense. Person must submit proof to DPS.

**Fee will drop from \$250 a year to \$125 a year.**



# DRP Reductions (cont.)

- No Driver License Surcharge
  - A reduction in surcharge will occur if the person obtains a driver's license no later than 60 days from the date of the offense.
  - The individual must submit a copy of the temporary permit to the Department of Public Safety's Enforcement and Compliance service.
  - Occupational, Interlock/Restricted licenses, Commercial licenses are included.

**Fee will drop from \$100 a year to \$50 a year.**



# DRP Reductions (cont.)

Mailing Address:

Texas Department of Public Safety  
Enforcement and Compliance Service  
P.O. Box 4087  
Austin TX 78773-0320

Fax Number: 512-424-2848

Email: [driver.improvement@dps.texas.gov](mailto:driver.improvement@dps.texas.gov)

# Occupational Licenses



# Occupational Licenses

- Requires a petition
- Requires a certified court order
- SR22 for the duration of the license
- \$10 fee per year up to 2 years
- All reinstatement fees must be paid
- Renew Driver License (if expired over 2 years)
- Surrender ID (if applicable)
- May not be issued:
  - to operate a CMV
  - if revoked for MAB
  - if revoked for failure to pay child support
- TRC 521.271(4) states the license expires on the 1st anniversary of the court order granting the license



# Occupational License

- If there is an active enforcement action (EA) on the history, a driver can be issued an occupational license
  - This includes suspensions for non-payment of surcharges
- Order remains valid until the end of the suspension of the person's driver license (TRC 521.248(c) ) or until the court order ends, whichever is first
- If an individual has never held a driver's license, they will be required to complete all written and driving tests prior to issuance of an occupational license.



# Occupational License

- There are waiting periods mandated by statute under TRC 521.251
  - 90 days if a prior alcohol/drug suspension within 5 years
  - 180 days if a DWI, Intoxication Assault or Manslaughter suspension within 5 years
  - 1 year if second or subsequent DWI, Intoxication Assault or Manslaughter suspension within 5 years
  - NOTE: If you issue a court order when the driver is under a mandatory suspension period, we will issue the occupational license and any liability for the driver's actions belongs to the court



# Occupational License

- The court order must reflect when and where they are allowed to drive.
- If any changes to the occupational court order occur, the individual will have to request an amended court order. Changes include:
  - A new job
  - Transfer to a new school
  - Move to a new location
  - Counties/Routes



# Occupational Overview

- The judge must determine essential need (TRC 521.244)
- An occupational license is not a hardship license; hardship licenses are only issued to minors
- The court must send a certified copy of the occupational court order to the Department. This includes court orders issued for only 30 days (TRC 521.249)
- A judge may revoke an occupational court order by notifying the Department (TRC 521.245 and 521.252)
- An application, also known as a petition, is available for free from the Travis County Law Library or [texaslawhelp.org](http://texaslawhelp.org)



Questions?